



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

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May 9th, 2001

Minutes of the May 9th, 2001, meeting of the Commission on Governmental Ethics and Election Practices held in the Commission Hearing Room, 242 State Street, Augusta, Maine.

Present: Chairman: Peter B. Webster; Members: Hon. Michael Carpenter (telephonically), Hon. Virginia Constantine, and Hon. Harriet P. Henry; Executive Director William C. Hain, III; Counsel Phyllis Gardiner, Esq.; and Commission Assistant Diana True.

Absent: Dr. Linda Cronkhite

Chair Webster called the meeting to order at 9:03 a.m.

The Commission considered items on the published agenda as follows:

**Agenda Item #5: Late Candidate Campaign Finance Report Penalty Determinations;
Honorable Zachary E. Matthews**

Mr. Hain briefed Commission Members regarding the late submission of campaign finance reports by Representative Matthews, including 6-Day Pre-Primary and Pre-General and 42-Day Post-Primary and Post-General Election reports. The total penalty based upon application of the statutory penalty matrix for late-filed reports equals \$10,171.40. Representative Matthews appeared before the Commission and explained the circumstances surrounding the late submission of his reports. He did not dispute the facts presented by Mr. Hain, but did offer an explanation that included an excessive work schedule, health care issues regarding close family members, and demanding legislative workload. He requested the Commission's understanding and asked for their consideration of his circumstances in assessing a penalty.

Judge Henry inquired whether Representative Matthews had any difficulty getting the required information together, to which he responded that the problem was finding the time to do the reports.

Chair Webster inquired about the mitigating circumstances standards to which Mr. Hain responded by reading the applicable statutory provisions.

Ms. Constantine noted that Representative Matthews is not new to the Legislature; that he had sufficient opportunity personally to intervene with Commission staff and had not done so; and while it is possible to be totally overwhelmed during a campaign, that situation is not unique to

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this candidate. She expressed her sentiment to assess the total penalty amount, but to waive a portion of that amount.

Mr. Carpenter moved, Ms. Constantine seconded, and Members voted unanimously to assess a penalty of \$10,171.40, but to waive all but \$2,000.00 of that amount conditioned upon no further violations of any laws over which the Commission has jurisdiction in the next 2 years, and that if any violation is noted during the next 2 years, this matter is to be referred back to the Commission and the Commission may assess the full penalty amount at that time.

**Agenda Item #6B: Violation of Contribution Limitations – 2000 General Election:
Honorable Betty Lou Mitchell**

Mr. Hain briefed Members regarding the question of a reported in-kind contribution of \$400.00 from Cianbro Corp. on Senator Mitchell's 6-Day Pre-General Election report. That amount, if accurate, reflects a contribution that exceeds the statutory limit of \$250.00 per donor per election by \$150.00. Mr. Hain read to Members a letter dated May 8th, 2001 that he had received from Senator Mitchell immediately before the meeting. The letter explained the circumstances surrounding the questioned \$400.00 contribution. Attorney Jon Doyle appeared on behalf of Senator Mitchell and recommended that Senator Mitchell's letter be appended to her report as an explanation of the contribution and that so doing would bring the report into substantial conformance with the reporting requirements. Based upon the content of that letter, Ms. Constantine moved, Judge Henry seconded, and Members voted unanimously to dismiss the matter and directed Mr. Hain to attach Senator Mitchell's letter to the applicable campaign finance report as an amendment to the original filing explaining the listed \$400.00 contribution.

Agenda Item #7A: Late Party Committee Quarterly Reports; Lincoln County Republican Committee

Mr. Hain briefed Members regarding the late submission of the Committee's January Quarterly Report. Mr. Donald Jones appeared and explained the Committee's good record of filing, the circumstances regarding the change of Committee Treasurer, and the mistaken belief by the Committee's officers that the report had been submitted as required. Ms. Janet Spear, former Treasurer, appeared and explained the timing of the change in Committee Treasurer, her belief that the report would be filed by the incoming Treasurer, and noted that the majority of the amount reported on the late report was for activity after the election. Based upon the information presented, Judge Henry moved, Ms. Constantine seconded, and Members voted unanimously to assess a penalty of \$250.00.

Agenda Item #4: Maine Clean Election Act Penalty Issue Status

Mr. Hain gave an oral report of the status of review of audits of late filed accelerated campaign finance reports by candidates with Maine Clean Election Act opponents and the status of communications with the Chairs of the Committee on Legal and Veterans' Affairs on the penalty implications of the apparent violations, including pending legislation being considered by the Legislature to address this issue. Chair Webster suggested that the matter may be more



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appropriately considered in June because action at this meeting may be premature given the possible legislative action. Based upon the information presented, Judge Henry moved, Ms. Constantine seconded, and Members voted unanimously to table consideration of this matter until the July meeting.

Agenda Item #2: Maine Clean Election Act

Mr. Hain presented the table of proposed distributions for Maine Clean Election Act candidates in the various legislative races in 2002 based upon the average of the reported expenditures for those races in 1998 and 2000. Based upon that information, Ms. Constantine moved, Judge Henry seconded, and Members voted unanimously to adopt the proposed Maine Clean Election Fund distributions for legislative candidates for year 2002 elections.

Agenda Item #7: Late Lobbyist Disclosure Penalty Determinations; Stephen Rosario, Lobbyist for American Plastics Council

Mr. Hain briefed Members regarding the late submission of Mr. Rosario's March monthly disclosure report. Following discussion, Ms. Constantine moved, Judge Henry seconded, and Members voted unanimously to assess a \$50.00 penalty.

Agenda Item #6C: Violations of Contribution Limitations – 2000 General Election; Ms. Jo Anne Frank

Following explanation of the situation by Mr. Hain, including the report of the contribution to Ms. Frank by Mr. Michael Vaughn (Androscoggin County Republicans), Ms. Constantine moved, Judge Henry seconded, and Members voted unanimously to table the matter pending amendment of the report to reflect Mr. Vaughn's explanation and to dismiss the matter if that amendment is made.

Agenda Item #8: Complaints filed by Mr. Edward J. Democracy

Ms. Constantine moved, Judge Henry seconded, and Members voted unanimously to table this matter until the June meeting.

Agenda Item #1: Ratification of April Minutes

Judge Henry moved, Ms. Constantine seconded, and Members voted unanimously to ratify the minutes of the April 11th, 2001 meeting.

Agenda Item #9: Request for Direction; Semiannual Reports

Mr. Hain requested direction regarding the following issue: A number of former candidates continue to file semiannual campaign finance reports because of unpaid outstanding obligations from their former campaigns. Examples include unpaid telephone, printing and mailing charges, facility rental fees, etc. Some of these former candidates have told Commission staff that they do



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not expect to ever pay the outstanding obligations, nor are their creditors actively pursuing or do they expect payment. Technically, the creditors cannot discharge the outstanding obligations because in most cases they would exceed the contribution limits. Pending some alternative, the staff must continue to notify of and these candidates must continue to file semiannual reports for as long as an account balance or deficit in excess of \$50 remains. Given the passage of time in these cases, can the Commission act in some manner to eliminate the reporting requirement in these cases? Following brief discussion, Mr. Hain was directed to continue to require the filing of these reports, there being no apparent basis to permit otherwise.

Mr. Carpenter terminated his telephonic participation at this point due in anticipation of the electronic filing demonstration that required telephonic Internet connection and observation capability.

Agenda Item #13: Electronic Filing System Demonstration

Mr. William McCully of Quest Information Systems demonstrated the electronic filing system for submission of reports by candidates, lobbyists, political action committees, and party committees and entertained questions from Commission Members.

Agenda Item #3: Penalty Collection Status Report

Counsel Gardiner briefed Members on the status of her efforts to collect unpaid penalties and enforce the submission of unfiled reports by former candidates, noting that she had not yet received a response to any of her inquiry letters. No action was required.

Agenda Item #10: Informational Items

Mr. Hain briefed Members regarding the Margaret Chase Smith Library Invitation to attend the annual Maine Town Meeting public policy program on Thursday, May 31st, 2001, on the topic of "Participatory Inequality and Trust in Governance." Judge Henry agreed to represent the Commission since she had planned to attend in another capacity. Mr. Hain also noted the COGEL 2001 Conference to be held in Lexington, KY, from Sunday, December 2nd, through Wednesday, December 5th, 2001. Mr. Carpenter previously indicated an interest in attending if he is available on those dates. Finally, Mr. Hain briefed Members regarding his meeting with the New Hampshire Fair Election Commission and their interest in the workings of the Maine Clean Election Act.

Agenda Item #11: Executive Session

The Commission had no reason to adjourn to executive session.

Agenda Item #12: Other

No other items were raised by Members.



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There being no further business, on motion and unanimous vote, the Commission adjourned at 11:45 a.m.

Respectfully submitted,

William C. Hain, III
Executive Director